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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: PFALLER - 1 (PCT) EXAMINER: YONG D. PAK
SERIAL NO: 10/031,547 GROUP: 1652
FILED: JANUARY 18, 2002
TITLE: PYRF GENE AND THE UTILIZATION THEREOF

RESPONSE TO SUPPLEMENTAL RESTRICTION REQUIREMENT

MAIL STOP: AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Supplemental Office Action dated November 2, 2004, Applicant respectfully responds as follows:

The Patent Examiner has withdrawn the previous Restriction Requirement dated July 13, 2004 and has required a Supplemental Restriction to one of the following three inventions:

Group I. Claims 8-11, 15, drawn to a DNA encoding an orotate phosphoribosyl transferase of SEQ ID NO:3, an orotate phosphoribosyl transferase of SEQ ID NO:3, vector comprising said DNA, host cell comprising said DNA and a method of producing said transferase.

Group II. Claims 12 and 16, drawn to a process for producing fungal strains by transforming a fungal strain with an auxotrophic gene.

Group III. Claims 13 and 14, drawn to an expression system comprising a selection marker gene which complements an auxotrophic gene defect.

ELECTION:

The Applicant respectfully selects Group I with traverse, Claims 8-11, and 15, drawn to a DNA encoding an orotate phosphoribosyl transferase of SEQ ID NO:3, an orotate phosphoribosyl transferase of SEQ ID NO:3, vector comprising said DNA, host cell comprising said DNA and a method of producing said transferase for further prosecution.

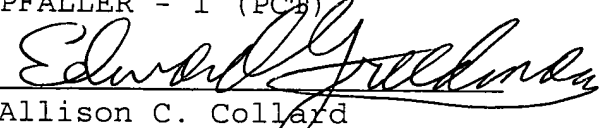
It is believed that the present invention is directed to a unitary inventive concept, namely, pyrF gene and its utilization thereof. It is believed that any search for the invention embodied in Group I would necessarily include a search for the invention embodied in Group II and in Group III. Thus, a simultaneous search for all of the groups is believed not to constitute an unreasonable search for the Patent Examiner. In addition, it is believed that the objectives of streamlined examination and compact prosecution would be promoted if a search were conducted simultaneously for all of the groups. Also, the necessity of filing multiple patent applications for the same invention does

filing multiple patent applications for the same invention does not serve to promote the public interest. This is because of the extra expense that is involved, in filing fees and examination costs, as well as the burden upon the public due to the necessity of searching through a multiplicity of patent files in order to find the complete range of subject matter claimed in several different patents that could otherwise be found in one issued patent only.

Applicant reserves the right to file a divisional patent application for the non-elected invention.

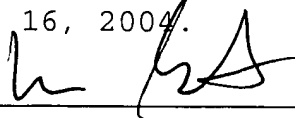
For all these reasons, it is respectfully requested that the restriction requirement under 35 U.S.C. 121 be withdrawn and that an action on the merits of all the claims be rendered.

Respectfully submitted,
PFALLER - 1 (PCT)


Allison C. Collard
Registration No. 22,532
Edward R. Freedman
Registration No. 26,048
Attorneys for Applicants

COLLARD & ROE, P.C.
1077 Northern Boulevard
Roslyn, New York 11576
(516) 365-9802

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on November 16, 2004.


Maria Gaustella